

**** Bill No. ****

EXHIBIT 2

DATE 02/21/2013

HB Joint Approps Sub Natural
Resources and Transportation

Introduced By *****

By Request of the House Joint Appropriations Subcommittee on

Natural Resources and Transportation

A Bill for an Act entitled: "An Act revising laws related to aquatic invasive species; establishing a statewide invasive species management area and authorizing check stations at key entry points to the state; defining and authorizing inspection of equipment; revising departmental duties and including the department of transportation; granting rulemaking authority; providing an appropriation; amending sections 80-7-1002, 80-7-1003, 80-7-1004, 80-7-1006, 80-7-1007, 80-7-1008, 80-7-1010, 80-7-1011, and 80-7-1014, MCA; and providing effective dates."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Statewide invasive species management area -- rulemaking authority.** (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment at key entry points to the state on a seasonal basis and the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2)(a) The departments shall conduct rulemaking on the administration of the statewide species management area,

including specifying the method or methods for preventing the introduction or further introduction of invasive species into the state, including rules for:

(i) the use of quarantine measures;

(ii) the movement of vessels and equipment into the state;

and

(iii) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and equipment moving into the state.

(b) Departmental authority to prescribe requirements for cleaning and inspecting vessels and equipment is limited to those vessels and equipment required to stop at a check station pursuant to subsection (5).

(3) As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

(4) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules imposed under this section. A department may examine any interior portion of equipment or a vessel that may contain water, including bilges, livewells, and bait containers,

for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to subsection (2)(a)(i).

(5) The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under this section; and

(b) stop at any check station established pursuant to this section unless:

(i) a medical emergency makes stopping likely to result in death or serious bodily injury; or

(ii) the vessel or equipment has never been launched or placed in a body of water.

(6) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to this section.

(7) After use in a body of water within the statewide invasive species management area, all equipment, vessels, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.

Section 2. Section 80-7-1002, MCA, is amended to read:

"80-7-1002. Legislative findings and purpose. (1) The legislature finds that:

(a) invasive species can wreak damage on the economy, environment, recreational opportunities, and human health in Montana;

(b) there is reason to be concerned about the further introduction, importation, and infestation of ~~Eurasian watermilfoil (Myriophyllum spicatum) and the introduction, importation, and infestation of additional invasive species in Montana, such as the zebra mussel (Dreissena polymorpha) and the quagga mussel (Dreissena bugensis),~~ invasive species that could cause catastrophic damage to not only our waterways, rivers, and lakes, our water storage, delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic ecosystems, but also to the entire state economy;

(c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting Montana against these species is of utmost importance to the state economy, environment, recreational opportunities, and human health for the benefit of all Montanans;

(d) preventing the introduction, importation, and infestation of invasive species is the most effective and least costly strategy for combating invasive species that, once established, are often difficult to control or eradicate;

(e) the use of check stations, at which vessels and ~~trailers transporting vessels~~ equipment may be inspected for the

presence of invasive species and cleaned if an invasive species is detected, is an effective way to prevent the introduction, importation, and infestation of invasive species that are easily transferred from infested areas to uninfested areas when proper precautions are not taken; and

(f) preventing the introduction, importation, and infestation of invasive species is best accomplished through coordinated educational and management activities.

(2) The purpose of this part is to establish a mechanism for Montana to take concerted action to detect, control, and manage invasive species, including preventing further introduction, importation, and infestation, by educating the public about the threat of these species, coordinating public and private efforts and expertise to combat these species, and authorizing the use of check stations to prevent the ~~intrastate~~ movement of invasive species from infested areas to uninfested areas to protect the state's economy, environment, recreational opportunities, and human health for the benefit of all Montanans."

{ Internal References to 80-7-1002: None. }

Section 3. Section 80-7-1003, MCA, is amended to read:

"80-7-1003. Definitions. As used in this part, the following definitions apply:

(1) "Departments" means the department of agriculture, the department of fish, wildlife, and parks, ~~and~~ the department of natural resources and conservation, and the department of

Unofficial Draft Copy

As of: February 20, 2013 (9:12am)

LC2136

transportation.

(2) "Equipment" means an article, tool, implement, device, or machinery capable of carrying or containing water or an invasive species, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge pipe, irrigation structures, and buoys.

(2)(3) "Invasive species" means, upon the mutual agreement of the directors of the departments, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

(3)(4) "Invasive species management area" means a designation made by a department under 80-7-1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area.

(4)(5) "Person" means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.

(5)(6) "Vessel" has the meaning provided in 61-1-101."

{ Internal References to 80-7-1003: None. }

Section 4. Section 80-7-1004, MCA, is amended to read:

"80-7-1004. Invasive species account. (1) There is an invasive species account in the state special revenue fund. The

account is administered by the department of ~~agriculture~~ fish, wildlife, and parks.

(2) Money transferred from the general fund or received from any other lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used to accomplish the purposes of this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) Any interest and earnings on the account must be retained in the account."

{ Internal References to 80-7-1004:
80-7-1008 a }

Section 5. Section 80-7-1006, MCA, is amended to read:

"80-7-1006. Departmental responsibilities. (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department's powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and

coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

(a) public awareness and education;

(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008 and the statewide invasive species management area established in [section 1];

(c) management, control, and restoration of infested areas; and

(d) emergency response.

(4) The departments ~~may~~ shall enforce quarantine regulations and measures imposed by law or rule in an invasive species management area under 80-7-1008 or in the statewide invasive species management area under [section 1], including the mandatory inspection of any interior portion of equipment or a vessel that may contain water for the presence of an invasive species.

(5) The departments may designate employees to carry out the provisions of this part.

~~(5)~~ (6) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of

invasive species."

{ Internal References to 80-7-1006:
80-7-1007 a }

Section 6. Section 80-7-1007, MCA, is amended to read:

"80-7-1007. Rulemaking authority. Unless otherwise provided in Title 81, chapters 2 and 7, or this chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive species under the departments' jurisdiction, including rules for the:

(1) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;

(2) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

(3) designation, regulation, and treatment of an invasive species management area under 80-7-1008, including rules pertaining to:

(a) the use of quarantine regulations and measures;

(b) the movement of vessels and equipment within, to, or from the area; and

(c) the inspection and cleaning of vessels and equipment moving within, to, or from the area; ~~and~~

(4) administration of the statewide invasive species management area established in [section 1]; and

~~(4)~~ (5) manner in which equipment and vessels, including bilges, livewells, bait containers, and other boating-related equipment, traveling in the state must be cleaned to ensure that

they are free from the presence of an invasive species."

{Internal References to 80-7-1007: None.}

Section 7. Section 80-7-1008, MCA, is amended to read:

"80-7-1008. Invasive species management area --

authorization. (1) ~~When~~ Except as provided in [section 1], when an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

(3) The designation of an invasive species management area must specify:

(a) the invasive species present or considered threatening;
and

(b) the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to:

(i) the use of quarantine measures;

(ii) the movement of vessels and equipment within, to, and from the area; and

(iii) whether check stations will be used to inspect and

clean vessels and equipment moving within, to, or from the area. A department may conduct mandatory inspections of any interior portion of equipment or a vessel that may contain water only if the department has included the use of mandatory inspections as part of quarantine measures established pursuant to subsection (3) (b) (i).

(4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs."

{ Internal References to 80-7-1008:

80-7-1006 a	80-7-1009x	80-7-1010a	80-7-1011 a
80-7-1011a	80-7-1011a }		

Section 8. Section 80-7-1010, MCA, is amended to read:

"80-7-1010. Invasive species management area -- regulation.

(1) The owner, operator, or person in possession of any vessel or equipment authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to 80-7-1008(3) (b).

(2) After use in a body of water within an invasive species management area, all equipment, vessels, bait containers, livewells, bilges, and other boating-related equipment, excluding

Unofficial Draft Copy

As of: February 20, 2013 (9:12am)

LC2136

marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.

(3) In ~~a body of water designated as~~ an invasive species management area, taking from the water or possessing any bait animal, dead or alive, including but not limited to crayfish, leeches, and minnows, is prohibited unless approved by the department of fish, wildlife, and parks."

{ Internal References to 80-7-1010:

80-7-1014 * a	80-7-1014 *a	80-7-1014 *a	80-7-1014 * a
80-7-1014 * a	80-7-1014 * a	80-7-1014 * a	80-7-1014 * a}

Section 9. Section 80-7-1011, MCA, is amended to read:

"80-7-1011. Check stations. (1) The departments shall establish a check station within or adjacent to an invasive species management area to prevent the introduction, importation, infestation, and spread of the invasive species for which the designation was issued.

(2) At a check station established under subsection (1), the departments may examine vessels and ~~trailers transporting vessels~~ equipment for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. A department may examine any interior portion of equipment or a vessel that may contain water, including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

Unofficial Draft Copy

As of: February 20, 2013 (9:12am)

LC2136

(3) The owner, operator, or person in possession of a vessel or equipment shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(4) If during an inspection of a vessel or ~~a trailer~~ transporting a vessel equipment the presence of an invasive species is detected, that vessel or ~~trailer~~ equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b)."

{ Internal References to 80-7-1011:

80-7-1014 * a	80-7-1014 * a	80-7-1014 * a	80-7-1014 * a
80-7-1014 * a	80-7-1014 * a	80-7-1014 * a	80-7-1014 * a }

Section 10. Section 80-7-1014, MCA, is amended to read:

"80-7-1014. Penalty. (1) Except as provided in subsection (2), the following penalties apply:

(a) The offense of negligently violating the provisions of 80-7-1010 through ~~80-7-1012~~ [section 1] or rules adopted under 80-7-1010 through ~~80-7-1012~~ [section 1] pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed \$500.

(b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through ~~80-7-1012~~ [section 1] or rules adopted under 80-7-1010 through ~~80-7-1012~~ [section 1] pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not

Unofficial Draft Copy

As of: February 20, 2013 (9:12am)

LC2136

to exceed \$1,000.

(c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine not to exceed \$5,000, or both. A person convicted of violating this subsection (1)(c) may also be required to pay restitution for any cost incurred to mitigate the effect of the violation.

(d) A civil penalty not to exceed \$250 may be imposed on any person who violates any other provision of 80-7-1010 through ~~80-7-1012~~ [section 1] or rules adopted under 80-7-1010 through ~~80-7-1012~~ [section 1] not enumerated in subsections (1)(a) through (1)(c).

(2) A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through ~~80-7-1012~~ [section 1] or rules adopted under 80-7-1010 through ~~80-7-1012~~ [section 1] if it is determined that a warning best serves the public interest.

(3) Civil penalties collected under this section must be deposited in the general fund."

{ Internal References to 80-7-1014:
80-7-1012 x }

NEW SECTION. **Section 11. Appropriation.** For the biennium beginning July 1, 2013, there is appropriated to the department of fish, wildlife, and parks \$500,000 from the state general fund for the prevention and control of any nonnative, aquatic invasive

Unofficial Draft Copy

As of: February 20, 2013 (9:12am)

LC2136

species pursuant to Title 80, chapter 7, part 10.

NEW SECTION. Section 12. {standard} Codification

instruction. [Section 1] is intended to be codified as an integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [section 1].

NEW SECTION. Section 13. {standard} Effective dates. (1)

Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 11] is effective July 1, 2013.

- END -

{Name : Hope E. Stockwell
Title : Research Analyst
Agency: LEPO
Phone : 444-9280
E-Mail: hstockwell@mt.gov}